



## Farm Donations to Food Pantries Credit

Beginning with tax year 2018, there is a refundable credit available for an eligible farmer that makes a donation of excess crops ([qualified donation](#)) or is the owner of a business entity that makes a qualified donation to an [eligible food pantry](#) operating in New York.

### Am I an eligible farmer?

Generally, an individual or corporate taxpayer<sup>1</sup> that has at least two-thirds of [excess federal gross income](#) from farming in the tax year is considered an eligible farmer. For more information, see our definition of [eligible farmer](#).

### What do I need to do at the time of the donation?

You must receive and **keep** a receipt (or other written communication) from the eligible food pantry showing:

- the name of the eligible food pantry,
- the employer identification number (EIN) of the eligible food pantry,
- the date and location of the qualified donation, and
- a reasonably detailed description of the qualified donation.

You must also **keep** proof of how the donation was valued. Acceptable proof of valuation includes U.S. Department of Agriculture (USDA) online price reports and local co-op pricing guidelines **for the date** the donation was made.

### When and how do I claim my credit?

You must claim the credit on your tax return for the tax year you made the qualified donations and complete Form IT-649 (individuals) or Form CT-649 (corporations), *Farm Donations to Food Pantries Credit*.

### How is the credit calculated?

The credit equals 25% of the [fair market value](#) (FMV) of qualified donations made to any eligible food pantry operating in New York during the tax year, not to exceed \$5,000.

**Example:** *An individual qualifies as an eligible farmer and makes qualified donations during tax year 2018 that have a FMV of \$12,000. The eligible farmer would be allowed a credit of \$3,000 calculated as follows:*

$$\$12,000 \text{ (FMV of qualified donations)} \times 25\% = \$3,000.$$

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<sup>1</sup> Subject to tax under Tax Law Article 9-A or 22.

If you are an eligible farmer that is a partner, shareholder of a New York S corporation, or beneficiary of an estate or trust, you may claim your share of the credit passed through to you. The \$5,000 limitation is applied at the entity level.

**Example:** *Partnership ABC has two equal partners and makes qualified donations to an eligible food pantry during tax year 2018 that have a FMV of \$30,000. Partnership ABC would calculate a credit equal to \$5,000 as follows:*

*\$30,000 (FMV of qualified donations) X 25% = \$7,500*

*The credit is limited to \$5,000 per tax year. Each partner may claim a \$2,500 credit if the partner is an eligible farmer.*

### **Can I claim this credit and a charitable deduction for the same donation?**

You may **not** use the same qualified donation to claim both the credit and a qualified charitable contribution deduction<sup>2</sup> for New York tax purposes.

- Corporate taxpayers that claim the credit must add to their federal taxable income on their New York return any qualified donation amounts to a food pantry deducted as a charitable contribution to the extent deducted in computing federal taxable income reported on their New York return.
- Individual taxpayers that claim the credit must not include any qualified donation amounts used to claim the credit as charitable contributions in their New York itemized deductions.

### **What if the credit is more than the tax amount I owe?**

The credit is refundable. Any credit amount more than your tax owed will be treated as an overpayment to be refunded, without interest, or credited to the next period. However, for corporate taxpayers, the credit cannot reduce the tax due to less than the applicable fixed dollar minimum tax under Tax Law § 210(1)(d).

### **Important information for partnerships, New York S corporations, estates and trusts**

If you are a partnership, New York S corporation, or an estate or trust, you must provide your partners, shareholders, and beneficiaries with the following information:

- their pro-rata or distributive share of the credit,
- their share of federal gross income and federal gross income from farming from the entity,
- a copy of the receipt from the eligible food pantry, and
- the means of valuing the donation.

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<sup>2</sup> Internal Revenue Code § 170

## Definitions

*Apparently wholesome food* means food that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

*Earned income* means wages, salaries, tips, and other employee compensation, and those items of gross income that are included in the computation of net earnings from self-employment.

An *eligible farmer* is a taxpayer that has at least two-thirds of [excess federal gross income](#) from farming in the tax year. Farming income includes payments from the New York State Farmland Protection Program.

- A taxpayer who qualifies for the single estimated tax payment for farmers for federal and state income tax purposes (two thirds or more of your federal gross income in the prior year is from farming) will qualify as an eligible farmer.
- Partners, shareholders, or beneficiaries determine eligibility including their share of federal gross income and federal gross income from farming passed through from the partnership, New York S corporation, estate, or trust.

*Eligible food pantry* means any food pantry, food bank, or other emergency food program operating in New York State that has qualified for tax exemption under IRC § 501(c)(3).

*Excess federal gross income* is the amount of federal gross income from all sources for the tax year:

- reduced by the sum (not to exceed \$30,000) of [earned income](#), pension payments (including Social Security payments), interest, and dividends included in federal gross income for Article 22 purposes (individual taxpayers).
- in excess of \$30,000 for Article 9-A purposes (corporate taxpayers).

The *fair market value* of food donated to an eligible food pantry is determined by considering the price of the same or similar food items (as to both type and quality) that could be sold by the taxpayer at the time of the contribution. See IRC § 170(e)(3)(C)(v) for more information.

*Qualified donation* means a donation by an eligible farmer (or a partnership, New York S corporation, estate, or trust that has partners, shareholders, or beneficiaries who are eligible farmers) to an eligible food pantry of any [apparently wholesome food](#) grown or produced within New York State.

## References

Tax Law §§ 208(9)(b)(22), 210-B(52), 606(i)(1)(B)(xlili), 606(n-2), and 615(c)(9)  
Part DDD of Chapter 59 of the Laws of 2017

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.